

Message Text

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PAGE 01 MEXICO 05285 220528Z

12

ACTION EB-11

INFO OCT-01 ARA-16 IO-14 ISO-00 AF-10 EA-11 EUR-25 NEA-14

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CIAE-00 COME-00 INR-10 LAB-06 NSAE-00 OIC-04 SIL-01

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FM AMEMBASSY MEXICO

TO SECSTATE WASHDC IMMEDIATE 2364

DEPARTMENT OF THE TREASURY WASHDC

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USMISSION GENEVA

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E.O. 11652: N/A

TAGS: EGEN, UNCTAD

SUBJECT: UNCTAD: CHARTER OF ECONOMIC RIGHTS AND DUTIES

1. ON BRADFIELD'S ARRIVAL, SCHWEBEL ARRANGED FOR A MEETING WITH CASTANEDA, AND TOOK OCCASION TO REITERATE STRONG DESIRE AND CONTINUING HOPE OF USG THAT CONSENSUS CAN BE ACHIEVED IN MEXICO ON CHARTER. FOR OUR PART, WE HAD INDICATED SUBSTANTIAL NUMBER OF CONCESSIONS WE ARE PREPARED TO MAKE. ON MORE INSOLUBLE ISSUES, WE HAVE BEEN AND REMAIN PREPARED TO ACCEPT AMBIGUOUS SOLUTIONS OF GENERALIZED LANGUAGE, WHICH PREJUDICE NEITHER POSITIONS OF LDCS NOR INDUSTRIALIZED. WE REGRETTED THE GLOOMY TONE OF PLENARY SESSION EVENING OF JUNE 19, FOR IT GAVE IMPRESSION THAT SOME LDCS LOOKED FORWARD TO CONFRONTATION AS THE UPSHOT OF THE MEETING RATHER THAN A NEGOTIATED AGREEMENT. JUST TODAY, IN INFORMAL NEGOTIATING GROUP ON NATIONALIZATION MEETING UNDER CASTANEDA'S CHAIRMANSHIP, CHADHA (INDIA) FLATLY STATED THAT HIS DEL WOULD NOT ACCEPT AMBIGUOUS SOLUTIONS THAT PRESERVE VARIOUS POSITIONS.

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PAGE 02 MEXICO 05285 220528Z

RATHER IT INSISTS ON CLARITY AND, WHERE AGREEMENT IS NOT ACHIEVED,

STATEMENT OF OPPOSING POSITIONS WHICH CAN BE PUT TO UNGA. THIS IS NOT OUR APPROACH, NOT LEAST BECAUSE WE FEEL THAT SUCH AN OUTCOME CANNOT REPRESENT THE SUCCESS MEXICO HOPES FOR. USDEL HAD EXPLICIT INSTRUCTIONS, AND WAS OPERATING WITHIN THEM, EXPLOITING SUCH FLEXIBILITY AS THEY AFFORDED. THE SECRETARY HAD MADE CLEAR THAT USDEL WAS TO MAKE A MAXIMUM EFFORT TO PROMOTE AGREEMENT, NOT CAVIL AT MINOR POINTS, BUT NOT SACRIFICE MAJOR USG INTERESTS; AND THAT IS AN INSTRUCTION TO WHICH USDEL ADHERES.

2. CASTANEDA REPLIED THAT HE AGREED THAT IT WOULD BE REGRETTABLE TO PUT ALTERNATIVE, DISAGREED TEXTS TO UNGA. LOTS OF AMENDMENTS MIGHT FOLLOW, AND THE CHARTER, RATHER THAN BEING A DISTINCTIVE DOCUMENT, WOULD BECOME JUST ANOTHER U.N. RESOLUTION. MOREOVER, WHILE HE HIMSELF WAS GLOOMY WHEN BOTH GROUP B AND 77 REJECTED THE GIVE POWER COMPROMISE, HE THOUGHT THAT A CERTAIN, ENCOURAGING PROGRESS WAS NOW BEING MADE IN THE GROUP HE CHAIRED. (HE CHAIRED THE GROUP, HE ADMITTED, NOT ALWAYS OBJECTIVELY, SOMETIMES YIELDING TO THE TEMPTATION TO MOVE THINGS IN THE LDC DIRECTION, SINCE MEXICO WAS ONE OF THE GROUP OF 77.)

3. AT SAME TIME, HE DID NOT SEE THAT THE OUTLOOK FOR AGREEMENT ON THE DIFFICULT CORE OF NATIONALIZATION-MNC QUESTIONS COULD BE REACHED UNLESS USG AND REMAINDER OF GROUP B WOULD ACCEPT GOVERNING LAW REFERENCE SUCH AS QUOTE APPLICABLE LAW UNQUOTE.

4. SCHWEBEL AND BRADFIELD REPLIED THAT, IN THEIR VIEW, REFERENCE TO MERE QTE APPLICABLE LAW UNQTE IN A CONTEXT SUCH AS FIVE POWER TEXT CLEARLY IMPORTED DOMESTIC LAW. IT WAS CONCEIVABLE THAT IT EMBRACED INTERNATIONAL LAW, BUT DOMINANT IMPRESSION WAS THAT OF DOMESTIC LAW, AND WE COULD NOT SEE OUR WAY TO AGREEING TO GIVING THAT IMPRESSION. WE HAD MADE MATERIAL CONCESSION BY WILLINGNESS TO ACCEPT TERMINOLOGY LIKE QTE APPLICABLE INTERNATIONAL OBLIGATIONS UNQTE SINCE GROUP OF 77 COULD CONSTRUE QTE OBLIGATIONS UNQTE AS BEING RESTRICTED TO TREATIES WHILE WE COULD TAKE MORE EXPANSIVE INTERPRETATION EMBRACING CUSTOMARY INTERNATIONAL LAW. MEXICO, FOR ITS PART, IN NOTE SENT TO SECRETARY KISSINGER, HAD PROPOSED IN SUBSTANCE INTERNATIONAL LAW AS DEVELOPED BY THE INTERNATIONAL COMMUNITY, WHICH WE HAD ACCEPTED. WHY COULD IT NOT NOW SETTLE FOR WHAT GAVE IT MORE?

5. CASTANEDA STATED THAT GONZALEZ GALVEZ QTE HAD MADE A MISTAKE LIMITED OFFICIAL USE

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PAGE 03 MEXICO 05285 220528Z

UNQTE IN COMPOSING THE MESSAGE CONTAINING THAT PROPOSAL; MEXICO REGRETTED IT AND WITHDREW IT. HE ADDED THAT ONE REASON WHY HE THOUGHT GROUP OF 77 WAS TAKING SUCH A HARD LINE IS THAT SCHWEBEL HAD TAKEN A SHARP TONE, AND THESE THINGS FEED ON THEMSELVES. E.G., SCHWEBEL WHOLLY REJECTED THE FIVE POWER COMPROMISE DRAFT.

6. SCHWEBEL REPLIED THAT HE HAD BEEN THAT CATEGORIC BECAUSE NEITHER HIS GOVT NOR UK, FRG, JAPAN, FRANCE AND DENMARK SAW MERIT IN THE

FIVE POWER DRAFT. FRG REJECTION WAS SHARPER THAN U.S. HIS INSTRUCTION FROM WASHINGTON WAS: QTE THIS COMPROMISE IS NO COMPROMISE AT ALL UNQTE. THIS WAS REALLY WASHINGTON'S VIEW; AND HIS EXPRESSION OF IT WAS DESIGNED TO MAKE CLEAR THAT IT WAS NOT PREPARED TO NEGOTIATE ON THE BASIS OF THAT DRAFT. COMMENT: IN OUR VIEW, MEXICAN CRITICISM IS OBVIOUS TACTIC DESIGNED TO WEAKEN USG POSITION ON SUBSTANCE OF ISSUES BEFORE WORKING GROUP. END COMMENT

7. SCHWEBEL REMARKED THAT REAL PROBLEM AT SESSION IS NOT ALLEGED OBDURACY OF GROUP B, BUT UNWILLINGNESS OF EXTREME MEMBERS OF GROUP OF 77 TO COMPROMISE IN ANY MEANINGFUL DEGREE ON DIFFICULT CORE PROBLEMS, NOTABLY NATIONALIZATION AND MNCS. MEXICO HAD STATED TO USDEL THAT IT COULD ACCEPT REFERENCE TO INTERNATIONAL LAW AS GOVERNING LAW; YESTERDAY RUMANIAN DEL HAD SAID SAME; APPARENTLY THEY COULD NOT PERSUADE EXTREMISTS TO ACCEPT EVEN LESSER REFERENCE, LIKE INTERNATIONAL OBLIGATIONS. IF THEY COULD NOT, WE WOULD REGRET IT BUT WOULD NOT ACCEPT THAT APPORTIONMENT OF BLAME WHICH GONZALEZ GALVEZ THREATENED. IT WAS A PITY IF GROUP OF 77 FELT CONSTRAINED TO LET ITS POLICIES BE SET BY ALGERIA; BUT USG COULD NOT AGREE TO HAVE ITS POLICIES SO DETERMINED.

8. CASTANEDA INDICATED THAT THE POINT WAS WELL TAKEN. HE AGREED THAT A CONTINUED SERIOUS EFFORT SHOULD BE MADE TO REACH A COMPROMISE, AND EXPRESSED APPRECIATION OF WILLINGNESS OF USDEL TO COOPERATE TOWARDS THAT END. AT SAME TIME, CASTANEDA LEFT UNMISTAKEABLE IMPRESSION THAT HE THOUGHT PROBABLE OUTCOME OF THIS SESSION WAS TO LEAVE KEY CLAUSES DISAGREED FOR RESOLUTION BY UNGA.

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